

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

CIVIL ACTION NO. 3:17-cv-05806-RJB

DECLARATION OF ANDREA  
BRENNEKE IN SUPPORT OF  
WASHINGTON'S RESPONSE TO  
DEFENDANT'S MOTION FOR  
LIMITED PROTECTIVE ORDER  
REGARDING DEPOSITION OF  
RYAN KIMBLE

Under penalty of perjury under the laws of the United States of America I, Andrea Brenneke, certify that the below is true and correct:

1. I am over the age of 18 and competent to testify.
2. I am an Assistant Attorney General in the Civil Rights Division of the Washington State Attorney General's Office and I represent the State of Washington in this matter.
3. After initial motions practice and assurances that it would produce documents responsive to Washington's written discovery requests, The GEO Group, Inc. (GEO) proposed and negotiated the terms of a Stipulated Protective Order. After its entry on June 26, 2018, GEO began making "rolling productions" of documents—including financial documents. The financial documents were produced only *after* entry of the Stipulated Protective Order and were marked "*CONFIDENTIAL*."

1       4. On July 9, 2018, Washington conducted a Federal Rule of Civil Procedure 30(b)(6)  
2 deposition of GEO, in which some of GEO's financial documents were admitted as exhibits.

3       5. On July 6, 2018 GEO produced, as part of its volume 2 production, summary documents  
4 regarding the number of detainee workers, average hours of work per assignment, and overall  
5 average number of hours of work per day per detainee at the VWP. One of these summary  
6 documents was used as Exhibit 20 for the July 9, 2018 30(b)(6) deposition of GEO. Attached hereto  
7 as Exhibit A is a true and correct copy of Exhibit 20 of the 30(b)(6) deposition of GEO (GEO-State  
8 019281).

9       6. Also produced on July 6, 2018, as part of GEO's volume 2 production, were incomplete  
10 summary tables of VWP amounts paid to detainee workers and reimbursements received by GEO  
11 by month and year. These summary tables were used as Exhibit 22 of the July 9, 2018 30(b)(6)  
12 deposition of GEO. Attached hereto as Exhibit B is a true and correct copy of Exhibit 22 of the  
13 30(b)(6) deposition of GEO (GEO-State 019286).

14       7. On August 14, 2018, GEO produced, as part of its volume 4 production, monthly invoices  
15 to ICE for reimbursement of total Voluntary Work Program (VWP) payments to detainee workers.  
16 Attached hereto as Exhibit C are true and correct copies of two of the monthly invoices to ICE for  
17 reimbursement of total VWP payments to detainee workers for February 2017 (GEO-State 46463)  
18 and January 2016 (GEO-State 46573).

19       8. On August 31, 2018, GEO produced, as part of its volume 5 production, monthly batch  
20 summaries with daily tracking of VWP payments to individual detainees with daily work rosters  
21 attached. Attached hereto as Exhibit D is a true and correct copy of one of the montly batch  
22 summaries with daily tracking of VWP payments to individual detainees with daily work rosters  
23 attached for December 18, 2009 (GEO-State 104409-104433). *See also* ECF No. 89-2. On April  
24 19, 2019, as part of its volume 14 production, GEO produced an additional monthly batch summary  
25 for April 2016. A true and correct copy of the first four pages of which are attached (GEO-State  
26 269508-269511) as part of Exhibit D.

9. In July and September of 2018, GEO produced budget spreadsheets regarding GEO's contracts and proposed contracts with Immigration and Customs Enforcement (ICE), including financial actuals, financial forecasts, and staffing budgets. Similar spreadsheets were produced again on April 3, 2019 in GEO's volume 13 production. Exhibit E is a true and correct copy of four of these budget spreadsheets regarding GEO's contracts and proposed contracts with ICE, including financial actuals as well as forecasts: one produced July 3, 2018 as part of its volume 3 production (GEO-State 022248); one produced September 8, 2018 as part of its volume 6 production, (GEO-State 229684); and two produced April 3, 2019 as part of its volume 13 production (GEO-State 248406) and (GEO-State 249292). Exhibit E is being filed with the court in its native Excel spreadsheet format on a USB flash drive.

10. On July 30, 2018, GEO produced, as part of its volume 3 production, food cost summaries and program specific budget documents. On January 30, 2019, Washington deposed Bertha Henderson, Food Service Manager at the Northwest Detention Center. Attached hereto as Exhibit F is a true and correct copy of one of the food cost summaries and program specific budget documents, used as Exhibit 41 in the deposition of Bertha Henderson (GEO-State 027771-027803).

11. GEO produced the "Cost/Price Proposal" it submitted to ICE for its 2015 contract renewal as part of its volume 4 production on August 14, 2014. A true and correct copy is attached as Exhibit G (GEO-State 048155-048161).

12. GEO also produced, as part of its volume 1 and 2 productions, other documents and communications regarding hours and payment of detainee workers in the VWP. Attached hereto as Exhibit H is a true and correct copy of one of the communications regarding hours and payment of detainee workers in the VWP that was used as Exhibit 16 to the 30(b)(6) deposition (GEO-State 006269-6270) and another that relates to schedules of some workers that was used as Exhibit 12 to the 30(b)(6) deposition, a true and correct copy of which is attached (GEO-State 000632-635).

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1 13. Attached hereto as Exhibit I is a true and correct copy of experts of the transcript of 30(b)(6)  
2 deposition of GEO, in the person of Ryan Kimble, taken July 9, 2018.

3 14. On September 20, 2018, Washington disclosed its expert witness, Dr. Peter Nickerson, and  
4 his report to GEO. On October 10, 2018, Washington disclosed Dr. Peter Nickerson's Amended  
5 Expert Report. Attached hereto as Exhibit J is a true and correct copy of Dr. Nickerson's Amended  
6 Expert Report.

7 15. On October 22, 2018, GEO produced William G. Brandt's Rebuttal Expert Report.  
8 Attached hereto as Exhibit K is a true and correct copy of Brandt's Rebuttal Expert Report.

9 16. After filing its mandamus petition in early January of 2019, GEO continued to produce  
10 some financial documents and information in discovery. For example, these include the monthly  
11 batch summary for April 2016, that is part of Exhibit D, and the native-format budget spreadsheets  
12 (GEO-State 248406) and (GEO-State 249292), that are part of Exhibit E. In a letter dated April 26,  
13 2019, GEO also notified Washington that it is withholding "approximately 12,000" additional  
14 financial documents and will not will review them for responsiveness, or produce them, until  
15 Washington obtains a favorable ruling on the mandamus petition.

16 17. Attached as Exhibit L is a true and correct copy of the Ninth Circuit oral argument sitting  
17 schedule for which our case is being considered, with possible argument dates in late August,  
18 October and November of 2019, all of which are after our current discovery cut-off of June 21,  
19 2019, and the latter two of which are after our trial date of September 23, 2019.

20 18. Attached as Exhibit M is a true and correct copy of the April 30, 2019 letter sent from  
21 Washington by Assistant Attorney General, Lane Polozola, to GEO regarding GEO's "claw back"  
22 request.

23 19. Attached as Exhibit N is a true and correct copy of the May 1, 2019 email received by  
24 Washington from GEO, Shannon Armstrong, in response to Washington's letter regarding GEO's

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1 “claw back” request.

2 Executed this 8th day of May 2019 in Seattle, Washington.

3  
4 s/ Andrea Brenneke

5 ANDREA BRENNEKE, WSBA No. 22027  
6 Assistant Attorney General  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated this 8th day of May 2019.

s/ Caitilin Hall  
CAITILIN HALL  
Legal Assistant